



## ***CLOSED CASE SUMMARY***

ISSUED DATE: SEPTEMBER 11, 2020

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2019OPA-0803

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	Not Sustained (Lawful and Proper)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope	Sustained
# 3	6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers May Conduct a Frisk of Stopped Subject(s) Only if...	Not Sustained (Training Referral)
# 4	8.400 - Use of Force Reporting and Investigation 3. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Following Any Use of Reportable Force, As Soon As Feasible	Sustained
# 5	6.010 - Arrests 4. Officers are Required to Report Arrests	Sustained

#### **Imposed Discipline**

Written Reprimand

#### **Named Employee #2**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	Not Sustained (Lawful and Proper)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope	Not Sustained (Unfounded)
# 3	6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers May Conduct a Frisk of Stopped Subject(s) Only if...	Not Sustained (Unfounded)
# 4	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report	Sustained
# 5	8.400 - Use of Force Reporting and Investigation 3. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Following Any Use of Reportable Force, As Soon As Feasible	Not Sustained (Unfounded)
# 6	6.010 - Arrests 4. Officers are Required to Report Arrests	Not Sustained (Training Referral)

#### **Imposed Discipline**

Oral Reprimand

#### **Named Employee #3**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	Not Sustained (Lawful and Proper)



# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope	Not Sustained (Unfounded)
# 3	6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers May Conduct a Frisk of Stopped Subject(s) Only if...	Not Sustained (Training Referral)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

**EXECUTIVE SUMMARY:**

The Complainant, an SPD supervisor, alleged that the Named Employees failed to report a Type I use of force, lacked justification for a *Terry* stop, and exceeded the permissible scope of the stop such that it constituted an arrest. It was also alleged that the Named Employees may have reported an arrest and un-arrest and conducted impermissible frisks.

**SUMMARY OF INVESTIGATION:**

On October 23, 2019 at 2316 hours, an anonymous 911 caller reported seeing two White males spray-painting a building. The caller reported the males leaving the area. Named Employees #1, #2, and #3 (NE#1, NE#2, and NE#3) responded. NE#1 arrived at 2321 hours, approximately 5 minutes after the call came into SPD. He observed four individuals near the spray-painted wall and an odor of paint. Three of the four individuals (referred to here as the Subjects) were Black males, and the fourth was a female of an unknown race. Shortly thereafter, at approximately 2323 hours, NE#2 and NE#3 arrived.

The four individuals began to walk away in two groups going in opposite directions. NE#1 contacted the two male individuals walking east. NE#1 directed them to walk back with him toward the scene of the incident. NE#1 told one male, who was later identified as Subject #2, that NE#1 saw him “milling” about the freshly painted wall. NE#1 then directed Subject #2 to place his hands against the wall and conducted a frisk for weapons. While being frisked, Subject #2 denied that he or the other individuals had been spray-painting. While NE#1 was speaking with Subject #2, NE#3 conducted a weapons frisk on Subject #3. NE#1’s Body-Worn Video (BWV) appeared to show NE#3 reaching into Subject #3’s pocket during the frisk.

At the same time, NE#2 went to contact the other two individuals, a male and female, who were also walking away. He directed them to sit on the bumper of NE#1’s patrol vehicle. NE#2 interviewed the male, who was later identified as Subject #1. Subject #1 stated that they were passing through the area. Subject #1 provided a name and NE#1 ran the names of all three subjects while NE#2 and NE#3 stood by.

NE#1 appeared to determine that there was a North Carolina warrant associated with Subject #1. He exited his patrol vehicle and told Subject #1 to stand. NE#1 and NE#2 handcuffed Subject #1 and told him about the North Carolina warrant. During the handcuffing, NE#1’s BWV recorded Subject #1 saying “ow.” The Subject also stated that he was not the individual named in the warrant and provided his name again. NE#1 acknowledged the error and unhandcuffed Subject #1. While unhandcuffing Subject #1, NE#2 said that they should screen “it” with a supervisor. NE#1 then returned to his car and conducted a lengthy record check of all the subjects in MDT. He identified a minor misdemeanor associated with Subject #2 but did not arrest him.



After determining that there was no warrant associated with Subject #1, NE#2 told Subject #1 and the unknown female that they were free to go. At the conclusion of the records check, over 25 minutes after initially detaining them, the Named Employees released Subjects #2 and #3. After the subjects left the area, NE#1 and NE#2 discussed the incident, including the complainant of pain from handcuffing. NE#1 radioed a Sergeant to screen the incident. He told the sergeant that Subject #1 complained of handcuffing pain, and that the officers had released the subjects. The Sergeant directed NE#1 to see him at the precinct.

In a subsequent command review of the incident, a Lieutenant (the Complainant in this case) identified that NE#1 failed to have a Sergeant respond to the scene of the incident after Subject #1 made a complaint alleging a Type I use of force (handcuff discomfort causing transient pain) and failed to screen the incident until after releasing the Subjects. The Lieutenant referred this incident to OPA, and this investigation ensued.

OPA conducted interviews with the Named Employees. At the time of the stop, NE#1 had approximately 18 months of experience as a patrol officer. In his interview, NE#1 stated that he was aware the Subjects did not match the description in the call and that time had elapsed since the call was made. He said that, when he arrived at the scene, he saw the four individuals facing the building alleged to have been spray-painted and believed they were spray-painting at the time based on his observation that they were all facing the building and that their hands were not visible. NE#1 stated that, notwithstanding the report that the two white males who were reported spray-painting had left the area, he believed his observations constituted reasonable suspicion for a Terry stop.

Regarding the frisk of Subject #2, NE#1 stated that he decided a frisk was necessary because of prior experience in the sector that individuals often carried weapons. He also stated that the Subjects had not complied with his initial commands and instead tried to leave the area, which increased his suspicion. When OPA asked why NE#1 did not immediately frisk the Subjects if he was concerned about weapons and instead walked them back to the incident scene, he stated that it was likely an error due to his lack of experience and that it did not immediately occur to him to frisk the Subjects.

Related to the mistaken handcuffing of Subject #1, NE#1 admitted that he failed to document the handcuffing as an arrest. He also admitted that he failed to immediately notify a supervisor when Subject #1 made a complaint of handcuff discomfort. He admitted that, as a whole, he made errors during the stop and that his errors were due to limited experience.

OPA interviewed NE#2. At the time of the incident, NE#2 had approximately two and a half years of police experience and was the primary officer on this call. NE#2 stated that, when he arrived, NE#1 was already in the process of detaining two of the Subjects and asked him to stop the other two. NE#2 relied on NE#1's evident reasonable suspicion when he detained Subject #1 and the unknown female and did not see any of the Subjects spray-painting.

Regarding Subject #1's handcuffing, NE#2 stated that he assisted NE#1 because NE#1 asked him to, and subsequently told him that there was a warrant for Subject #1's arrest. He stated that he did not hear Subject #1 complain about handcuff discomfort. NE#2 said that when he told NE#1 that they would have to screen "it," he was referring to the mistaken handcuffing. NE#2 did not document Subject #1's handcuffing as an arrest and stated that this was because the warrant supplying a basis to arrest Subject #1 was not verified, so the handcuffing and release did not amount to an arrest.



In his Field Contact Report, NE#2 indicated that he detained Subject #2 and Subject #3 for approximately nine minutes. OPA noted that BWV showed the detention lasted for approximately 25 minutes. Similarly, NE#2's report stated that Subject #1 was detained for approximately four minutes while BWV showed a 14-minute detention. When questioned about the discrepancies, NE#2 stated that the times in his report were estimates.

In addition, NE#2's report stated that none of the subjects were frisked while BWV showed that they were. NE#2 explained (and BWV confirmed) that he did not frisk the subjects and was unaware that NE#1 and NE#3 did so. Finally, NE#2 stated that not identifying the unknown female or completing a Field Contact Report for her was a "mistake."

OPA interviewed NE#3. NE#3 has been an SPD officer since 2007 and has over 20 years of law enforcement experience. NE#3 stated that he responded as backup to the other officers and stopped the two male individuals at NE#1's direction. As a backing officer, he did not take any investigatory steps during the investigation and stated that he viewed his task as providing officer safety.

NE#3 stated that he frisked Subject #3 because based on his experience, he was aware that the sector was a high narcotics trafficking area and that "acts of violence" occur there daily. He also stated that he knew based on experience that many individuals in the sector carried weapons during the hours of darkness and that it was therefore plausible to believe one or all of the Subjects might be armed. He stated that he directed Subject #3 to place his hands against the wall because it allowed him to see the Subject #2's hands and the waist area of his pants. NE#3 stated that he uses this tactic when the situation and terrain dictate it.

NE#3 also stated that he did not immediately frisk Subject #3, instead walking with and observing Subject #3 for approximately a city block because he initially deferred to NE#1's handling of the investigation. When Subject #3 arrived at the incident location, NE#3 directed him to place his hands on the wall and frisked him.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegations #1**

##### ***6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures Based Upon Reasonable Suspicion***

SPD Policy 6.220-POL-2 governs Terry stops and stands for the proposition that Terry stops are seizures of an individual and, as such, must be based on reasonable suspicion in order to be lawful. SPD Policy defines a Terry stop as: "A brief, minimally invasive seizure of a suspect based upon articulable reasonable suspicion in order to investigate possible criminal activity." (SPD Policy 6.220-POL-1.) SPD Policy further defines reasonable suspicion as: "Specific, objective, articulable facts, which, taken together with rational inferences, would create a well-founded suspicion that there is a substantial possibility that a subject has engaged, is engaging or is about to engage in criminal conduct." (*Id.*) Whether a Terry stop is reasonable is determined by looking at "the totality of the circumstances, the officer's training and experience, and what the officer knew before the stop." (*Id.*) While "[i]nformation learned during the stop can lead to additional reasonable suspicion or probable cause that a crime has occurred, it "cannot provide the justification for the original stop." (*Id.*)

As discussed above, the Named Employees responded to a report of individuals spray-painting a wall. When the officers responded, they observed the Subjects in the immediate vicinity of the wall and smelled the odor of fresh paint. At the time the officers arrived, the Subjects split up in two groups and began walking away.



Based on these facts – most notably, the Subjects being in the immediate vicinity of the scene of the criminal activity at the time of fresh spray-paint being on the wall, there was reasonable suspicion to detain the Subjects. While the initial description of the perpetrators were two White males and the Subjects were three individuals of color, this did not, standing alone, dispel the reasonable suspicion underlying the stop. Indeed, such descriptions, particularly when made during evening hours, can be imperfect and unreliable.

Lastly, as a legal matter, reasonable suspicion is not a high standard. OPA finds that, given the facts and information available to the Named Employees at the time, it was met here. As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

**Named Employee #1 - Allegation #2**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope***

SPD Policy 6.220-POL-3 requires that officers limit a seizure to a reasonable scope. The policy further states that: “Actions that would indicate to a reasonable person that they are being arrested or indefinitely detained may convert a Terry stop into an arrest requiring probable cause or an arrest warrant.” (SPD Policy 6.200-POL-3.)

While OPA finds that the seizure was supported at the outset by reasonable suspicion, OPA concludes that it ultimately exceeded the permissible scope allowed by SPD policy.

Most notably, OPA finds that the detention exceeded a reasonable amount of time. OPA’s investigation indicated that Subject #1 and his female companion were detained for 14 minutes and that Subject #2 and Subject #3 were detained for 29 minutes. This was after all of the Subjects had been searched and no spray-paint or any other evidence connecting them to criminal activity had been identified. OPA concludes that, once no such evidence was uncovered, the detention should have been ended immediately. The failure to do so violated policy and caused the stop to go beyond the “brief, minimally invasive seizure” contemplated in *Terry v. Ohio*.

Moreover, as discussed below, OPA finds that the frisks of the Subjects were questionable at best. While this would not, in and of itself, cause the scope of the detention to be unreasonable, it is relevant to this determination when coupled with the length of the stop.

For these reasons, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #3**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers May Conduct a Frisk of Stopped Subject(s) Only if...***

SPD Policy 6.220-POL-8 states that: “Officers may conduct a frisk or a pat-down of a stopped subject only if they reasonably suspect that the subject may be armed and presently dangerous.” The policy explains that: “The decision to conduct a frisk or pat-down is based upon the totality of the circumstances and the reasonable conclusions drawn



from the officer's training and experience." (SPD Policy 6.220-POL-8.) The policy provides a non-exclusive list of factors supporting such a search. (*See id.*)

Based on OPA's review of the BWV, the paperwork relating to this incident, and the OPA interviews of NE#1 and NE#2, OPA has significant questions as to the propriety of the frisks. For the primary reason supporting the frisk, both NE#1 and NE#3 articulated that the Subjects were in an area in which violent crime was prevalent and in which individuals often carried weapons. However, the fact that a detention occurs in a high-crime area is not in itself sufficient to justify a search. *See State v. Smith*, 102 Wn.2d 449, 452-53, 688 P.2d 146 (1984) (holding that the inquiry must focus on the defendant and his actions, not the area where he was found). NE#1 further pointed to the Subjects walking away when the officers approached and the Subjects' puffy/oversized clothing, as well as not being able to see at least one of the Subject's hands. NE#3 stated that same concerning the Subject's clothing and the possibility that a weapon could be secreted inside in response to a follow-up question posed by his Guild Representative. However, both NE#1 and NE#3 allowed the Subject to walk towards the wall prior to frisking them and did not immediately do so. Had they perceived an imminent threat to their safety, it follows that the officers would have conducted the frisks in a more expeditious fashion.

Neither NE#1 nor NE#3 articulated why they specifically believed that the Subjects, themselves, were potentially armed and dangerous. Moreover, there was no evidence that NE#1 or NE#3 had any prior experience with the Subjects or knew them to carry weapons. Lastly, the officers were not responding to a call concerning a weapon or concerning a crime of violence.

In evaluating this allegation, OPA recognizes that, as articulated by the Washington State Supreme Court: "[C]ourts are reluctant to substitute their judgment for that of police officers in the field. 'A founded suspicion is all that is necessary, some basis from which the court can determine that the [frisk] was not arbitrary or harassing.'" *State v. Collins*, 121 Wn.2d 168, 174, 847 P.2d 919 (1993) (internal quotations and citations omitted). Moreover, an officer need not be certain that the frisked individual is armed or dangerous, the test is whether a reasonably prudent person in the same circumstances would be warranted in the belief that their safety was in danger.

Given this, and even though OPA finds the frisks to have been questionable and not sufficiently articulated, OPA declines to issue Sustained findings. OPA reaches this conclusion based on the low legal standard for a frisk set forth under case law and the non-intrusive nature of the frisks – most notably, that the officers did not appear to search for other evidence of criminality. In addition, NE#1 already received a Sustained finding for his extension of the stop beyond a reasonable scope, which takes into account the frisk.

Accordingly, OPA recommends that this allegation be Not Sustained and issues NE#1 and NE#3 the below Training Referral.

- **Training Referral:** NE#1 and NE#3 should receive retraining and counseling concerning when a frisk is appropriate and, specifically, the propriety of the frisks in this case. This should include a review of policy and applicable case law. This retraining and counseling should be documented, and that documentation retained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**





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**Named Employee #1 - Allegations #4**

***8.400 - Use of Force Reporting and Investigation 3. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Following Any Use of Reportable Force, As Soon As Feasible***

SPD Policy 8.400-POL-3 states that officers, including witness officers, will verbally notify a supervisor immediately, unless not practical, following any use of reportable force. SPD Policy 8.400-POL-2 categorizes a complaint of transient pain, including that from the wearing of handcuffs, as Type I force that must be reported to a supervisor.

OPA finds that NE#1 failed to report Subject #1's complaint of handcuff discomfort in a timely manner. The complaint was plainly audible on BWV and NE#1 did not contend that he did not hear the Subject report the discomfort. In addition, NE#1 spent several minutes attempting to verify warrants and otherwise performing non-urgent duties, meaning that the situation was not one where exigency would have prevented a reasonable officer from contacting a supervisor. Rather, NE#1's failure to report stemmed from what appeared to failure to recognize the need to report the allegation of pain.

While OPA acknowledges that NE#1 was a newer officer at the time, it is essential that force and complaints of pain be timely reported, both to ensure community confidence and continued compliance with the Consent Decree. Moreover, the failure to do so prevented NE#1's supervisor from conducting a thorough investigation into the force. As such, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #5**

***6.010 - Arrests 4. Officers are Required to Report Arrests***

SPD Policy 6.010-POL-4 requires that officers "notify a sergeant and complete an Arrest Report for each person arrested." The policy further states that "[i]ncidents where a subject has been arrested and then released shall be documented in a Report." *Id.*

OPA finds that NE#1 violated this policy in multiple respects. First, he did not immediately notify a Sergeant of the arrest and un-arrest of Subject #1. He further did not call a Sergeant to the scene to screen the un-arrest and, instead, allowed Subject #1 to leave the scene prior to this occurring. Second, he did not document the arrest and un-arrest of Subject #1 in an incident report.

Given the importance of screening and documenting deprivations of liberty and as NE#1 failed to comply with every aspect of this policy, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #2 - Allegations #1**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures Based Upon Reasonable Suspicion***

For the same reasons as above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Lawful and Proper.



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Recommended Finding: **Not Sustained (Lawful and Proper)**

**Named Employee #2 - Allegation #2**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope***

While NE#2 and NE#3 participated in the detention of the Subjects, both indicated that NE#1 was the driver of the stop and that they were following his lead. Given this, OPA finds that NE#1, not NE#2 and NE#2, is responsible for the impermissibly expansive scope of the detention. As such, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#2 and NE#3.

Recommended Finding: **Not Sustained (Unfounded)**

**Named Employee #2 - Allegation #3**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers May Conduct a Frisk of Stopped Subject(s) Only if...***

NE#2 stated, and BWV confirmed, that he did not frisk anyone during the incident. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

**Named Employee #2 - Allegations #4**

***15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report***

SPD Policy 15.180-POL-5 states that “[o]fficers Shall Document all Primary Investigations on a Report.” SPD Policy 15.180-POL-5. Policy requires that the reports be complete, thorough, and accurate. *Id.*

OPA finds that NE#2’s report concerning this incident was incomplete and inaccurate in a number of respects. The shortcomings of the reports included the following: (1) the reports noted that no frisks occurred while all three Subjects were frisked; (2) the reports failed to mention that Subject #1 was handcuffed and then un-arrested; (3) the reports did not discuss the seizure of the female; (4) and the reports significantly underestimated the length of the detentions.

While reports cannot be perfect and inaccuracies are, at times, to be expected, the scope of the inaccuracies and lack of completeness of NE#2’s reports here rose to the level of a violation of policy. As with the reporting of force, it is essential to accurately report detentions and arrests. Even though OPA understands that NE#2 was not the main decision-maker behind the detentions and did not conduct the frisks, when he took on the task of writing the reports, he was required to do so thoroughly and accurately. He did not meet those standards here.

As such, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**





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**Named Employee #2 - Allegation #5**

***8.400 - Use of Force Reporting and Investigation 3. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Following Any Use of Reportable Force, As Soon As Feasible***

NE#2, like NE#1, failed to report Subject #1's complaint of pain from handcuffing. However, unlike NE#1, NE#2 stated that he did not hear the complaint of pain. Based on OPA's review of the BWV, OPA credits NE#2's account. First, NE#2 had no reaction to the complaint of pain and did not appear to recognize that it had been made. Second, NE#2's statements to NE#1 after the fact were focused on screening the arrest and un-arrest with a supervisor and did not concern the complaint of pain. It makes no sense that NE#2 would screen the arrest but purposefully decline to report the force.

Accordingly, OPA concludes that NE#2 did not hear the complaint of pain and, thus, that he did not violate policy when he failed to notify a supervisor. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

**Named Employee #2 - Allegation #6**

***6.010 - Arrests 4. Officers are Required to Report Arrests***

At his OPA interview, NE#2 recognized that the arrest and un-arrest of Subject #1 should have been screened with a supervisor. He explained, however, that this was generally the responsibility of the handcuffing officer – in this case, NE#1. OPA agrees that NE#1 bears primary responsibility for the failure to report the arrest; however, NE#2 should have independently ensured that it was reported. His not doing so is, in OPA's opinion, best addressed by retraining.

As such, OPA issues NE#2 the below Training Referral.

- **Training Referral:** NE#2 should be reminded that all arrests and un-arrests must be screened with a supervisor and documented in a report. Future failures to comply with this policy may result in a recommended Sustained finding and discipline. This counseling and any retraining should be documented, and that documentation retained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**

**Named Employee #3 - Allegations #1**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures Based Upon Reasonable Suspicion***

For the same reasons as above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**



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**Named Employee #3 - Allegation #2**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope***

For the same reasons as stated above (see Named Employee #2 – Allegation #2), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

**Named Employee #3 - Allegation #3**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers May Conduct a Frisk of Stopped Subject(s) Only if...***

OPA recommends that this allegation be Not Sustained and refers to the above Training Referral (see Named Employee #1 – Allegation #3).

Recommended Finding: **Not Sustained (Training Referral)**